

The following emergency rule changes are in effect January 1, 2009

*****NEW RULE *****

LCR 40.1 EX PARTE AND PROBATE DEPARTMENT

(a) Ex Parte and Probate Department.

(1) Reserved.

(2) Ex Parte Department Presentation of Motions and Hearings Manual. The Ex Parte Department Presentation of Motions and Hearings Manual (“Motions and Hearings Manual”) is issued by the Clerk and shall contain a list of all matters that shall be presented to the Ex Parte and Probate Department and specifically indicate which matters shall be heard in person and which shall be submitted in writing, without oral argument, through the Clerk’s office. The Motions and Hearings Manual shall contain specific procedural information on how to present matters through the Clerk’s office. The Motions and Hearings Manual shall be made available online at www.kingcounty.gov/courts/clerk and in paper form through the Clerk’s office and the Ex Parte and Probate Department.

(b) Motions and Other Documents

(1) Scope of Rules. This rule governs all matters presented to the Ex Parte and Probate Department.

(2) Cases Not Assigned. Except as provided otherwise in these rules, all motions and proceedings pertaining to cases not assigned a case schedule or judge on filing or where the initial hearing is not held before the assigned judge shall be presented to the Ex Parte and Probate Department. See LCR 40(b)(2).

(3) Assigned Cases. Although assigned to a judge (IC judge), the following civil matters shall be presented to the Ex Parte and Probate Department except as provided otherwise in these rules or by the Court:

(A) In civil proceedings, including family law proceedings, all agreed orders, judgments and decrees, and any orders that do not require notice to any other party, interested person, or entity, including motions for orders to show cause, provided that the order does not affect the case schedule, direct the Clerk to seal a document or file, or purport to direct the manner in which another Department or Judge handles a hearing (i.e. a motion to exceed page limits or shorten time), and is not reserved to any other calendar by any statute, court rule, or court order. See LCR 40 and LFLR 5.

(B) Motions to approve or disapprove the settlement of a claim on behalf of an incapacitated adult or minor. See SPR 98.16.

(C) Judgments on arbitration awards. See LMAR 6.3.

(D) Civil and family law emergency restraining orders, including domestic violence, sexual assault, and anti-harassment protection orders where either no notice or shortened notice has been given to the opposing parties.

(E) Any other matters as directed by these rules or the Court.

(4) Matters Not Presented to the Ex Parte and Probate Department. Regardless of the type of motion, the following types of cases are not heard in the Ex Parte and Probate Department except as otherwise directed by the Court: juvenile court proceedings

(except marriage waivers); civil commitment and sexual predator proceedings; criminal matters; and family law matters given a UFS or UFK designation and assigned to an individual judicial officer for intensive case management. See LFLR 5 and the Motions and Hearings Manual with respect to what types of family law motions shall be presented to the Ex Parte and Probate Department.

(5) Argument. Matters presented to the Ex Parte and Probate Department are heard either with or without oral argument as determined by this rule.

(A) Matters With Oral Argument. Generally, emergency orders of protection, other specific emergent matters, matters requiring notice, matters requiring testimony, and matters directed specifically by the Court will be heard in person, with oral argument, on the assigned Ex Parte and Probate Calendar. The parties shall comply with the Motions and Hearings Manual to determine if a specific matter shall be permitted oral argument.

(B) Matters Without Oral Argument. All other matters not presented in person shall be submitted to the Ex Parte and Probate Department in writing, without oral argument, through the Clerk's office. Parties must deliver or mail their paperwork to the Clerk's office directly. The Clerk's office will assess a processing fee. The processing fee must be paid or waived at the time of submission. Parties shall comply with the specific process set forth in the Motions and Hearings Manual for submitting their paperwork.

LCR 7. CIVIL MOTIONS

(b) Motions and Other Documents.

(3) Argument. All nondispositive motions and motions for orders of default and default judgment shall be ruled on without oral argument, except for the following:

- (A) Motions for revision of Commissioners' rulings;
- (B) Motions for temporary restraining orders and preliminary injunctions;
- (C) Family Law motions under LFLR 5;
- (D) Motions to be presented in person to the ~~before~~ Ex Parte and Probate

Department Commissioners pursuant to the Ex Parte Department Presentation of Motions and Hearings Manual ("Motions and Hearings Manual") issued by the Clerk;

- (E) Motions for which the Court allows oral argument.

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(5) Form of Motions and Responsive Pleadings.

(D) Presentation by Mail. With respect only to those matters that must be presented to the assigned judge, the chief judge of the Regional Justice Center or the Chief Judge of the Unified Family Court Department, parties Counsel ~~Counsel~~ may present agreed orders and ex parte orders based upon the record in the file by mail, addressed ~~either to the court or to the Clerk~~ either to the court or to the Clerk. When signed, the judge/commissioner will file such order with the Clerk. ~~When rejected, the judge/commissioner may return the papers to the counsel.~~ An addressed stamped envelope shall be provided for return of any conformed materials ~~and/or rejected orders.~~

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(9) Motion for Order to Show Cause. ~~Motions for Order to Show Cause may~~ shall be ~~heard in~~ presented without oral argument to the eEx pParte dDepartment through the Clerk's office. For cases where the return on the order to show cause is before the hearing judge, the moving party shall obtain a date for such hearing from the staff of the assigned judge ~~before appearing in presenting the motion to the eEx pParte dDepartment.~~

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LCR 40. ASSIGNMENT OF CASES AND WHERE MOTIONS ARE TO BE HEARD

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(b) *Notice of Trial--Note of Issue.*

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(2) Cases Not Assigned. Cases not assigned a case schedule or judge on filing or where initial hearing is not held before the assigned judge:

(E) Guardianships, Probates and Other Settlements of Claim involving Incapacitated Adults or Minors. All proceedings brought under Title 11 which include but are not limited to Guardianships, Probates, and trust matters, as well as motions to approve settlement of a claim on behalf of a minor or incapacitated adult pursuant to SPR 98.16, shall be set on the Guardianship/Probate calendar in the Ex Parte Department either through the Clerk's office or in person, pursuant to the policy guidelines in the Motions and Hearings Manual issued by the Clerk's office. If the matter is contested, it may be referred by the ~~commissioner~~ judicial officer to the eClerk who will issue a trial date and will assign the case to a judge.

(F) Marriage Age Waiver Petitions. These petitions shall be presented in person to ~~in~~ the Ex Parte Department.

(J) Receivership Proceedings. If the petition is a new action and not part of an underlying proceeding, the initial hearings shall be set in the Ex Parte Department, and be presented in person; contested proceedings may be referred by the commissioner to the eClerk who will issue a trial date and a case schedule and will assign the case to a judge.

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(O) Unlawful Detainer Actions. ~~The initial hearings shall be set in the orders to show cause, and any agreed orders or orders that do not require notice, shall be obtained by presenting the orders, through the Clerk's office, to the Ex Parte and Probate Department, without oral argument. The initial hearing on order to show cause shall be heard in person in the Ex Parte and Probate Department, provided that contested proceedings may be referred by the commissioner~~ judicial officer to the eClerk who will issue a trial date and a case schedule and will assign the case to a judge.

(R) Writs.

(i) Applications for Writs of Habeas Corpus relating to custody of minor children shall be presented to and returnable to the senior Judge of the Unified Family Court department at the Maleng Regional Justice Center.

(ii) Extraordinary writs (writs of review, coram nobis mandamus, prohibition and certiorari): See LCR 98.40.

(iii) For other writs (pre-judgment garnishment, attachment, replevin, restitution, assistance) the initial application shall be presented without oral argument to the Ex Parte and Probate Department through the Clerk's office. ~~or the assigned judge.~~

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LCR 54. JUDGMENTS AND COSTS

(f) Presentation.

(3) Presentation by Legal Assistant. Legal assistants who are duly registered with the King County Bar Association or any local bar association of this state may personally present ~~agreed, ex parte and uncontested~~ orders based solely upon the documents presented and the record in the file.

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LCR 55. DEFAULT AND JUDGMENT

(a) Entry of Default.

(1) Order of Default. When there has not been an appearance, a party shall A party may seek entry of an Order of Default in from the Ex Parte and Probate Department through the Clerk's office. When there has been an appearance, the motion for default shall be noted without oral argument before the assigned Judge, or if none, in the courtroom of the Chief Civil Department for Seattle case assignment area cases and the Chief Judge of the Maleng Regional Justice Center for Kent case assignment area cases.

(b) Entry of Default Judgment. Upon entry of an Order of Default, a party ~~may~~ shall move for entry of judgment against the party in default ~~in from the Ex Parte and Probate Department through the Clerk's office, or before the assigned Judge.~~ If the Court determines that testimony is required, the moving party shall schedule the matter at any time to be heard in person in the Ex Parte and Probate Department, or at the time designated by the assigned Judge's department.

(c) Setting Aside Default Judgments. Orders to show cause to vacate ~~orders of~~ default judgments shall be presented to the Ex Parte and Probate Department either through the Clerk's office or in person, pursuant to the policy guidelines in the Motions and Hearings Manual issued by the Clerk. Orders to show cause are returnable to the assigned judge. If no judge is assigned, orders to show cause are returnable to the Chief Civil Judge for Seattle cases and the Chief Judge of the Maleng Regional Justice Center for Kent cases. See LCR 7(b)(8). Also see LCR 60(e)(1).

LCR 65. INJUNCTIONS

(b) Temporary Restraining Order

(1) Where heard: Except for family law cases, a party seeking a temporary restraining order ~~may bring~~ shall present the motion for temporary restraining order ~~in to the eEx pParte and Probate dDepartment through the Clerk's Office.~~ For family law cases, see the LFLR's (Local Family Law Rules).

(2) Calendaring requirement: Prior to appearing in the ~~eEx pParte and Probate dDepartment~~ on a motion for a temporary restraining order, the moving party shall obtain a date

for hearing on the motion for preliminary injunction from the trial department to which the case is assigned. The hearing shall be set in conformance with the timing requirements of CR 65(b).

LCR 66. RECEIVERSHIP PROCEEDINGS

(a) *Generally.*

(1) Petition and Notice. A petition for appointment of a receiver may be filed in an underlying proceeding, as provided in RCW 7.60 or as a new action as otherwise provided by statute. Reasonable notice of the time and place of the hearing to determine the appointment of a receiver and the name of any proposed receiver recommended by the petitioner shall be served upon all parties. If the petition is filed as a new action, the initial hearing shall be set without oral argument in the Ex Parte and Probate Department, be presented through the Clerk's office, and an order to show cause shall be served on all parties. Contested proceedings may be referred by the commissioner to the assigned Judge. Petitions filed in a pending action shall be heard by the assigned Judge, and do not require an Order to Show Cause if all parties have been served and appeared in the action. Upon the appointment of a receiver, the receiver shall notify all parties of the appointment.

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LCR 77. SUPERIOR COURTS AND JUDICIAL OFFICERS

(f) *Sessions.*

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(11) Sealed Files. Applications to examine sealed files shall be made as follows: civil, ~~and domestic~~, paternity and dependency cases to the assigned judge, or respective Chief Judge, and petitions to review or remove a will from the will repository to the Ex Parte and Probate Department, with oral argument, presented in person; adoption cases to the Sealed Adoption File Committee judges; dependency cases to the Juvenile Department; mental illness cases to the mental illness calendar. No order permitting the examination of any sealed file shall be entered without a written motion establishing justification under applicable court rules and caselaw. The court may, in its discretion, require notice to be given to any party in interest before permitting such examination.

LCR 98.04 ESTATES-PROBATE-NOTICES

(a) Probate Hearings. Probate matters shall be ~~heard in~~ presented to the Ex Parte and Probate Department in accordance with the policy guidelines in the probate manual issued by the Court and the Motions and Hearings Manual issued by the Clerk. The judicial officer may refer contested proceedings to the Clerk who shall issue a case schedule and assign a judge.

LGR 15. DESTRUCTION, SEALING, AND REDACTION OF COURT RECORDS

(a) *Motions to Destroy, Redact or Seal.*

(1) Guardianship and Trusts: (Title 11) Motions may be presented to any regularly sitting (but not a pro tem) ex parte commissioner, without oral argument, through the Clerk's office.

(4) Name Changes Based on Domestic Violence: If no assigned judge, motion may be presented by the requesting party to any regularly sitting (but not a pro tem) ~~e~~Ex ~~p~~Parte ~~e~~Commissioner.

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LFLR 5. WHERE TO SCHEDULE MOTIONS IN FAMILY LAW PROCEEDINGS.

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(b) *Where to Schedule Motions; General Rule.* Except as otherwise provided in these rules, contested pre-trial and post-trial motions in family law proceedings, including non-marital relationships involving parenting and/or the distribution of assets/liabilities, shall be heard on the Family Law Motions Calendar. See LFLR 6 for Family Law Motions Calendar Procedures. Agreed orders and orders to show cause ~~are generally heard on the~~ shall be presented without oral argument to the Ex Parte Calendar and Probate Department through the Clerk's office. ~~on a walk-in basis.~~

(6) Motions to Vacate Orders.

(A) An agreed order to vacate an order ~~may~~ shall be presented without oral argument to the Ex Parte and Probate Department through the Clerk's office, unless the effect of the order would be to reinstate a case that has been dismissed or where the trial date has passed, in which case the agreed order shall be presented pursuant to LR 60.

(B) An agreed order to vacate a Clerk's dismissal so that parties may enter final orders ~~may~~ shall be presented without oral argument to the Ex Parte and Probate Department through the Clerk's office.

(9) Motions for Default Orders and Default Judgments.

(A) When notice is not required, motions for default orders and judgments shall be ~~heard in~~ presented without oral argument to the Ex Parte and Probate Department through the Clerk's office. If notice to an opposing party is required (for example, when an appearance but no answer has been filed), motions for default orders and judgments shall be noted on the family law motions calendar in accordance with LFLR 6.

(B) Appearance by Responding Parties without Filing a Response. If a party has appeared in the proceeding, but not filed a Response to the Petition, any other party may move for an Order of Default on the Family Law Motion Calendar, to be presented without oral argument through the Clerk's office. Upon entry of the Order of Default, the evidence may

be reviewed and a default judgment (including an order setting support) may be entered in the Ex Parte and Probate Department.

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LFLR 15. RELOCATION OF CHILDREN.

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(b) *Presentation of Proposed Parenting Plan.* In the absence of an objection, but no earlier than thirty (30) days after the relocating party has served a proposed parenting plan on the person entitled to residential time with the children, any party to the relocation action may present the relocating party's proposed parenting plan to the Ex Parte and Probate Department through the Clerk's office for entry.